

hospitalized under section 324 of this title to pay or contribute toward the cost of his hospitalization. All collections or reimbursement on account of the costs and charges for the care of the eligible person shall be deposited in the Treasury as miscellaneous receipts. Any judicial proceedings to recover such costs or charges shall be brought in the name of the United States in any court of competent jurisdiction.

**(b) “Costs or charges” defined**

As used in this section, the term “costs or charges” means, in the case of hospitalization at a hospital under the jurisdiction of the Department of Health and Human Services, a per diem rate prescribed by the Secretary on a basis comparable to that charged for any other paying patients and, in the case of persons hospitalized elsewhere, the contract rate or a per diem rate fixed by the Secretary on the basis of the contract rate.

(Pub. L. 86-571, § 8, July 5, 1960, 74 Stat. 310; Pub. L. 96-88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695.)

**CHANGE OF NAME**

“Department of Health and Human Services” substituted in text for “Department of Health, Education, and Welfare” pursuant to section 509(b) of Pub. L. 96-88 which is classified to section 3508(b) of Title 20, Education.

**§ 329. Availability of appropriations for transportation**

Appropriations for carrying out this chapter shall also be available for the transportation of any eligible person and necessary attendants to or from a hospital (including any hospital of a State or political subdivision to which an eligible person is released under section 323 of this title), to the place where a relative to whom any person is released under section 323 of this title resides, or to a person’s home upon his discharge from hospitalization under this chapter.

(Pub. L. 86-571, § 9, July 5, 1960, 74 Stat. 310.)

**CHAPTER 10—ARMED FORCES RETIREMENT HOME**

Sec.

401. Definitions.

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**SUBCHAPTER III—AUTHORIZATION OF APPROPRIATIONS**

441. Repealed.

**§ 401. Definitions**

For purposes of this chapter:

(1) The term “Retirement Home” includes the institutions established under section 411 of this title, as follows:

(A) The Armed Forces Retirement Home—Washington.

(B) The Armed Forces Retirement Home—Gulfport.

(2) The term “Local Board” means a Local Board of Trustees established under section 416 of this title.

(3) The terms “Armed Forces Retirement Home Trust Fund” and “Fund” mean the Armed Forces Retirement Home Trust Fund established under section 419(a) of this title.

(4) The term “Armed Forces” does not include the Coast Guard when it is not operating as a service in the Navy.

(5) The term “chief personnel officers” means—

(A) the Deputy Chief of Staff for Personnel of the Army;

(B) the Chief of Naval Personnel;

(C) the Deputy Chief of Staff for Personnel of the Air Force; and

(D) the Deputy Commandant of the Marine Corps for Manpower and Reserve Affairs.

(6) The term “senior noncommissioned officers” means the following:

(A) The Sergeant Major of the Army.

(B) The Master Chief Petty Officer of the Navy.

(C) The Chief Master Sergeant of the Air Force.

(D) The Sergeant Major of the Marine Corps.

(Pub. L. 101-510, div. A, title XV, §1502, Nov. 5, 1990, 104 Stat. 1722; Pub. L. 106-398, §1 [[div. A], title IX, §902(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A-224; Pub. L. 107-107, div. A, title XIV, §1402, Dec. 28, 2001, 115 Stat. 1257.)

**REFERENCES IN TEXT**

This chapter, referred to in text, was in the original “this title”, meaning title XV of Pub. L. 101-510, div. A, Nov. 5, 1990, 104 Stat. 1722, as amended, which is classified principally to this chapter. For complete classification of title XV to the Code, see Short Title note below and Tables.

**AMENDMENTS**

2001—Pars. (1) to (3). Pub. L. 107-107, §1402(1), added pars. (1) to (3) and struck out former pars. (1) to (3) which read as follows:

“(1) The term ‘Retirement Home’ means the Armed Forces Retirement Home established under section 411(a) of this title.

“(2) The term ‘Retirement Home Board’ means the Armed Forces Retirement Home Board.

“(3) The term ‘Local Board’ means a Board of Trustees established for each facility of the Retirement Home maintained as a separate establishment of the Retirement Home for administrative purposes.”

Par. (4). Pub. L. 107-107, §1402(1), (2), redesignated par. (6) as (4) and struck out former par. (4) which read as follows: “The term ‘Director’ means a Director of the Armed Forces Retirement Home appointed under section 417(a) of this title.”

Par. (5). Pub. L. 107-107, §1402(1), (2), redesignated par. (7) as (5) and struck out former par. (5) which read as follows: “The term ‘Fund’ means the Armed Forces Re-

tirement Home Trust Fund established under section 419(a) of this title.”

Par. (5)(C). Pub. L. 107-107, §1402(3)(A), substituted “for Personnel” for “, Manpower and Personnel”.

Par. (5)(D). Pub. L. 107-107, §1402(3)(B), substituted “for Manpower and Reserve Affairs” for “with responsibility for personnel matters”.

Pars. (6) to (8). Pub. L. 107-107, §1402(2), redesignated pars. (6) to (8) as (4) to (6), respectively.

2000—Par. (7)(D). Pub. L. 106-398 amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: “the Deputy Chief of Staff for Manpower of the Marine Corps.”

**EFFECTIVE DATE**

Pub. L. 101-510, div. A, title XV, §1541, Nov. 5, 1990, 104 Stat. 1736, as amended by Pub. L. 103-160, div. A, title III, §366(f), Nov. 30, 1993, 107 Stat. 1632, which provided that title XV of Pub. L. 101-510 (see Short Title note below) and the amendments made by such title were effective one year after Nov. 5, 1990, except that sections 1519, 1531, and 1533(c)(1) of the Act (enacting sections 419 and 431 of this title and amending section 1321 of Title 31, Money and Finance) were effective Nov. 5, 1990, provisions of section 1515 of the Act (enacting section 415 of this title) relating to the appointment and designation of members of the Retirement Home Board and Local Boards were effective Oct. 1, 1991, and section 1520 of the Act (enacting section 420 of this title) was applicable to the estate of each resident of the Armed Forces Retirement Home who dies after Nov. 29, 1989, was repealed by Pub. L. 107-107, div. A, title XIV, §1410(b)(3), Dec. 28, 2001, 115 Stat. 1266.

**SHORT TITLE**

Pub. L. 101-510, div. A, title XV, §1501(a), formerly §1501, Nov. 5, 1990, 104 Stat. 1722, as renumbered by Pub. L. 107-107, div. A, title XIV, §1410(c)(1), Dec. 28, 2001, 115 Stat. 1266, provided that: “This title [enacting this chapter, amending section 6a of this title, sections 1089, 2575, 2772, 4624, 4712, 9624, and 9712 of Title 10, Armed Forces, section 1321 of Title 31, Money and Finance, section 1007 of Title 37, Pay and Allowances of the Uniformed Services, and section 906 of Title 44, Public Printing and Documents, repealing sections 21a to 25, 41 to 43, 44b, 45 to 46b, 48 to 50, 54, and 59 of this title and sections 4713 and 9713 of Title 10, and enacting provisions set out as notes above and under section 2772 of Title 10] may be cited as the ‘Armed Forces Retirement Home Act of 1991’.”

**TRANSFER OF FUNCTIONS**

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

**SUBCHAPTER I—ESTABLISHMENT AND OPERATION OF RETIREMENT HOME****§ 411. Establishment of the Armed Forces Retirement Home****(a) Independent establishment**

The Armed Forces Retirement Home is an independent establishment in the executive branch.

**(b) Purpose**

The purpose of the Retirement Home is to provide, through the Armed Forces Retirement Home—Washington and the Armed Forces Retirement Home—Gulfport, residences and re-

lated services for certain retired and former members of the Armed Forces.

**(c) Facilities**

(1) Each facility of the Retirement Home referred to in paragraph (2) is a separate establishment of the Retirement Home.

(2) The United States Soldiers' and Airmen's Home is hereby redesignated as the Armed Forces Retirement Home—Washington. The Naval Home is hereby redesignated as the Armed Forces Retirement Home—Gulfport.

**(d) Operation**

(1) The Chief Operating Officer of the Armed Forces Retirement Home is the head of the Retirement Home. The Chief Operating Officer is subject to the authority, direction, and control of the Secretary of Defense.

(2) Each facility of the Retirement Home shall be maintained as a separate establishment of the Retirement Home for administrative purposes and shall be under the authority, direction, and control of the Director of that facility. The Director of each facility of the Retirement Home is subject to the authority, direction, and control of the Chief Operating Officer.

**(e) Property and facilities**

(1) The Retirement Home shall include such property and facilities as may be acquired under paragraph (2) or accepted under section 415(f) of this title for inclusion in the Retirement Home.

(2) The Secretary of Defense may acquire, for the benefit of the Retirement Home, property and facilities for inclusion in the Retirement Home.

(3) The Secretary of Defense may dispose of any property of the Retirement Home, by sale, lease, or otherwise, that the Secretary determines is excess to the needs of the Retirement Home. The proceeds from such a disposal of property shall be deposited in the Armed Forces Retirement Home Trust Fund. No such disposal of real property shall be effective earlier than 120 days after the date on which the Secretary transmits a notification of the proposed disposal to the Committees on Armed Services of the Senate and the House of Representatives.

**(f) Department of Defense support**

The Secretary of Defense may make available from the Department of Defense to the Retirement Home, on a nonreimbursable basis, administrative support and office services, legal and policy planning assistance, access to investigative facilities of the Inspector General of the Department of Defense and of the military departments, and any other support necessary to enable the Retirement Home to carry out its functions under this chapter.

**(g) Accreditation**

The Chief Operating Officer shall endeavor to secure for each facility of the Retirement Home accreditation by a nationally recognized civilian accrediting organization, such as the Continuing Care Accreditation Commission and the Joint Commission for Accreditation of Health Organizations.

**(h) Annual report**

The Secretary of Defense shall transmit to Congress an annual report on the financial and

other affairs of the Retirement Home for each fiscal year.

(Pub. L. 101-510, div. A, title XV, § 1511, Nov. 5, 1990, 104 Stat. 1723; Pub. L. 103-160, div. A, title III, § 366(a), Nov. 30, 1993, 107 Stat. 1630; Pub. L. 107-107, div. A, title XIV, § 1403, Dec. 28, 2001, 115 Stat. 1258.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (f), was in the original "this title", meaning title XV of Pub. L. 101-510, div. A, Nov. 5, 1990, 104 Stat. 1722, as amended, which is classified principally to this chapter. For complete classification of title XV to the Code, see Short Title note set out under section 401 of this title and Tables.

AMENDMENTS

2001—Pub. L. 107-107 reenacted section catchline without change and amended text generally, substituting present provisions for provisions relating to inclusion of existing homes in the Armed Forces Retirement Home in subsec. (a), the purpose of the Retirement Home in subsec. (b), its operation in subsec. (c), its property and facilities in subsec. (d), the requirement that the Secretary of Defense make available certain support services for the Home in subsec. (e), and its accreditation in subsec. (f).

1993—Subsecs. (e), (f). Pub. L. 103-160 added subsec. (e) and redesignated former subsec. (e) as (f).

EFFECTIVE DATE

Section effective one year after Nov. 5, 1990, see section 1541(a) of Pub. L. 101-510, formerly set out as a note under section 401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 401 of this title.

**§ 412. Residents of Retirement Home**

**(a) Persons eligible to be residents**

Except as provided in subsection (b) of this section, the following persons who served as members of the Armed Forces, at least one-half of whose service was not active commissioned service (other than as a warrant officer or limited-duty officer), are eligible to become residents of the Retirement Home:

(1) Persons who—

(A) are 60 years of age or over; and

(B) were discharged or released from service in the Armed Forces under honorable conditions after 20 or more years of active service.

(2) Persons who are determined under rules prescribed by the Chief Operating Officer to be incapable of earning a livelihood because of a service-connected disability incurred in the line of duty in the Armed Forces.

(3) Persons who—

(A) served in a war theater during a time of war declared by Congress or were eligible for hostile fire special pay under section 310 of title 37;

(B) were discharged or released from service in the Armed Forces under honorable conditions; and

(C) are determined under rules prescribed by the Chief Operating Officer to be incapable of earning a livelihood because of injuries, disease, or disability.

(4) Persons who—

(A) served in a women's component of the Armed Forces before June 12, 1948; and

(B) are determined under rules prescribed by the Chief Operating Officer to be eligible for admission because of compelling personal circumstances.

**(b) Persons ineligible to be residents**

A person described in subsection (a) of this section who has been convicted of a felony or is not free of drug, alcohol, or psychiatric problems shall be ineligible to become a resident of the Retirement Home.

**(c) Acceptance**

To apply for acceptance as a resident of a facility of the Retirement Home, a person eligible to be a resident shall submit to the Director of that facility an application in such form and containing such information as the Chief Operating Officer may require.

**(d) Priorities for acceptance**

The Chief Operating Officer shall establish a system of priorities for the acceptance of residents so that the most deserving applicants will be accepted whenever the number of eligible applicants is greater than the Retirement Home can accommodate.

(Pub. L. 101-510, div. A, title XV, § 1512, Nov. 5, 1990, 104 Stat. 1724; Pub. L. 107-107, div. A, title XIV, §§ 1404(b)(1)(A), 1405(a), 1410(b)(1), Dec. 28, 2001, 115 Stat. 1260, 1261, 1266.)

AMENDMENTS

2001—Subsecs. (a), (c), (d). Pub. L. 107-107, § 1404(b)(1)(A), substituted “Chief Operating Officer” for “Retirement Home Board” wherever appearing.

Subsec. (e). Pub. L. 107-107, § 1405(a), struck out heading and text of subsec. (e). Text read as follows: “A resident of the Retirement Home who leaves the Retirement Home for more than 45 consecutive days (other than for inpatient medical care) shall be required to reapply for acceptance as a resident.”

Subsec. (f). Pub. L. 107-107, § 1410(b)(1), struck out heading and text of subsec. (f). Text read as follows: “Residents of the Naval Home and the United States Soldiers’ and Airmen’s Home as of the effective date specified in section 1541(a)—

“(1) shall not be required to apply for acceptance as residents of the Retirement Home; and

“(2) shall become residents of the Retirement Home on that date.”

EFFECTIVE DATE

Section effective one year after Nov. 5, 1990, see section 1541(a) of Pub. L. 101-510, formerly set out as a note under section 401 of this title.

**§ 413. Services provided residents**

**(a) Services provided**

Except as provided in subsection (b) of this section, a resident of the Retirement Home shall receive the services authorized by the Chief Operating Officer.

**(b) Medical and dental care**

The Retirement Home shall provide for the overall health care needs of residents in a high quality and cost-effective manner, including on site primary care, medical care, and a continuum of long-term care services. Secondary and tertiary hospital care for residents that is not available at a facility of the Retirement

Home shall, to the extent available, be obtained by agreement with the Secretary of Veterans Affairs or the Secretary of Defense in a facility administered by such Secretary. The Retirement Home shall not be responsible for the costs incurred for such care by a resident of the Retirement Home who uses a private medical facility for such care. The Retirement Home may not construct an acute care facility.

(Pub. L. 101-510, div. A, title XV, § 1513, Nov. 5, 1990, 104 Stat. 1725; Pub. L. 103-160, div. A, title III, § 366(c), Nov. 30, 1993, 107 Stat. 1630; Pub. L. 107-107, div. A, title XIV, §§ 1404(b)(1)(B), 1410(a)(1), Dec. 28, 2001, 115 Stat. 1260, 1266.)

AMENDMENTS

2001—Subsec. (a). Pub. L. 107-107, § 1404(b)(1)(B), substituted “Chief Operating Officer” for “Retirement Home Board”.

Subsec. (b). Pub. L. 107-107, § 1410(a)(1), struck out “maintained as a separate establishment” after “available at a facility” in second sentence.

1993—Subsec. (b). Pub. L. 103-160 added second and third sentences and struck out former second sentence which read as follows: “Secondary and tertiary hospital care for residents that is not available at the Retirement Home shall be obtained through agreements with facilities administered by the Secretary of Veterans Affairs or the Secretary of Defense or at private facilities.”

EFFECTIVE DATE

Section effective one year after Nov. 5, 1990, see section 1541(a) of Pub. L. 101-510, formerly set out as a note under section 401 of this title.

**§ 414. Fees paid by residents**

**(a) Monthly fees**

The Director of each facility of the Retirement Home shall collect a monthly fee from each resident of that facility.

**(b) Deposit of fees**

The Directors shall deposit fees collected under subsection (a) of this section in the Armed Forces Retirement Home Trust Fund.

**(c) Fixing fees**

(1) The Chief Operating Officer, with the approval of the Secretary of Defense, shall from time to time prescribe the fees required by subsection (a) of this section. Changes to such fees shall be based on the financial needs of the Retirement Home and the ability of the residents to pay. A change of a fee may not take effect until 120 days after the Secretary of Defense transmits a notification of the change to the Committees on Armed Services of the Senate and the House of Representatives.

(2) The fee shall be fixed as a percentage of the monthly income and monthly payments (including Federal payments) received by a resident. The percentage shall be the same for each facility of the Retirement Home. The Secretary of Defense may make any adjustment in a percentage that the Secretary determines appropriate.

(3) The fee shall be subject to a limitation on maximum monthly amount. The amount of the limitation shall be increased, effective on January 1 of each year, by the percentage of the increase in retired pay and retainer pay that takes effect on the preceding December 1 under sub-

section (b) of section 1401a of title 10 without regard to paragraph (3) of such subsection. The first increase in a limitation on maximum monthly amount shall take effect on January 1, 2003.

**(d) Transitional fee structures**

(1) Until different fees are prescribed and take effect under subsection (c) of this section, the percentages and limitations on maximum monthly amount that are applicable to fees charged residents of the Retirement Home are (subject to any adjustment that the Secretary of Defense determines appropriate) as follows:

(A) For months beginning before January 1, 2002—

(i) for a permanent health care resident, 65 percent (without limitation on maximum monthly amount); and

(ii) for a resident who is not a permanent health care resident, 40 percent (without limitation on maximum monthly amount).

(B) For months beginning after December 31, 2001—

(i) for an independent living resident, 35 percent, but not to exceed \$1,000 each month;

(ii) for an assisted living resident, 40 percent, but not to exceed \$1,500 each month; and

(iii) for a long-term care resident, 65 percent, but not to exceed \$2,500 each month.

(2) Notwithstanding the limitations on maximum monthly amount prescribed under subsection (c) of this section or set forth in paragraph (1)(B), until the earlier of December 31, 2006, or the date on which an independent living resident or assisted living resident of the Armed Forces Retirement Home—Gulfport occupies a renovated room at that facility, as determined by the Secretary of Defense, the limitation on maximum monthly amount applicable to the resident for months beginning after December 31, 2001, shall be—

(A) in the case of an independent living resident, \$800; and

(B) in the case of an assisted living resident, \$1,300.

(Pub. L. 101-510, div. A, title XV, § 1514, Nov. 5, 1990, 104 Stat. 1725; Pub. L. 103-337, div. A, title III, § 371(b), Oct. 5, 1994, 108 Stat. 2735; Pub. L. 107-107, div. A, title XIV, § 1405(b), Dec. 28, 2001, 115 Stat. 1261.)

**AMENDMENTS**

2001—Pub. L. 107-107 reenacted section catchline without change and amended text generally, substituting present provisions for provisions relating to collection of monthly fees in subsec. (a), deposit of fees in subsec. (b), fixing fees in subsec. (c), and application of fees in subsec. (d).

1994—Subsec. (c)(2). Pub. L. 103-337, § 371(b)(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “The fee shall be fixed as a percentage of Federal payments made to a resident, including monthly retired or retainer pay, monthly civil service annuity, monthly compensation or pension paid to the resident by the Secretary of Veterans Affairs, and Social Security payments. Residents who do not receive such Federal payments shall be required to pay a monthly fee that is equivalent to the average monthly fee paid by residents who receive Federal payments, subject to such adjustments in the fee as the Retirement Home

Board may make. The percentage shall be the same for each establishment of the Retirement Home.”

Subsec. (d). Pub. L. 103-337, § 371(b)(2), added subsec. (d) and struck out former subsec. (d) which specified fees to be paid by residents of the Naval Home and residents of the United States Soldiers’ and Airmen’s Home who became residents of the Retirement Home on the effective date specified in section 1541(a) of Pub. L. 101-510.

Subsec. (e). Pub. L. 103-337, § 371(b)(2)(A), struck out subsec. (e) which read as follows: “A person who becomes a resident of the Retirement Home after the effective date specified in section 1541(a) shall be required to pay a monthly fee that is equal to 25 percent of Federal payments made to the resident, subject to such adjustments in the fee as may be made under subsection (c) of this section.”

**EFFECTIVE DATE OF 1994 AMENDMENT**

Section 371(d)(2) of Pub. L. 103-337 provided that: “The amendments made by subsection (b) [amending this section] shall take effect on October 1, 1997.”

**EFFECTIVE DATE**

Section effective one year after Nov. 5, 1990, see section 1541(a) of Pub. L. 101-510, formerly set out as a note under section 401 of this title.

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in section 419 of this title.

**§ 415. Chief Operating Officer**

**(a) Appointment**

(1) The Secretary of Defense shall appoint the Chief Operating Officer of the Retirement Home.

(2) The Chief Operating Officer shall serve at the pleasure of the Secretary of Defense.

(3) The Secretary of Defense shall evaluate the performance of the Chief Operating Officer at least once each year.

**(b) Qualifications**

To qualify for appointment as the Chief Operating Officer, a person shall—

(1) be a continuing care retirement community professional;

(2) have appropriate leadership and management skills; and

(3) have experience and expertise in the operation and management of retirement homes and in the provision of long-term medical care for older persons.

**(c) Responsibilities**

(1) The Chief Operating Officer shall be responsible to the Secretary of Defense for the overall direction, operation, and management of the Retirement Home and shall report to the Secretary on those matters.

(2) The Chief Operating Officer shall supervise the operation and administration of the Armed Forces Retirement Home—Washington and the Armed Forces Retirement Home—Gulfport, including the Local Boards of those facilities.

(3) The Chief Operating Officer shall perform the following duties:

(A) Issue, and ensure compliance with, appropriate rules for the operation of the Retirement Home.

(B) Periodically visit, and inspect the operation of, the facilities of the Retirement Home.

(C) Periodically examine and audit the accounts of the Retirement Home.

(D) Establish any advisory body or bodies that the Chief Operating Officer considers to be necessary.

**(d) Compensation**

(1) The Secretary of Defense may prescribe the pay of the Chief Operating Officer, except that the annual rate of basic pay, including locality pay, of the Chief Operating Officer may not exceed the annual rate of basic pay payable for level III of the Executive Schedule under section 5314 of title 5.

(2) In addition to basic pay and any locality pay prescribed for the Chief Operating Officer, the Secretary may award the Chief Operating Officer, not more than once each year, a bonus based on the performance of the Chief Operating Officer for the year. The Secretary shall prescribe the amount of any such bonus.

(3) The total amount of the basic pay and bonus paid the Chief Operating Officer for a year under this section may not exceed the annual rate of basic pay payable for level I of the Executive Schedule under section 5312 of title 5.

**(e) Administrative staff**

(1) The Chief Operating Officer may, subject to the approval of the Secretary of Defense, appoint a staff to assist in the performance of the Chief Operating Officer's duties in the overall administration of the Retirement Home.

(2) The Chief Operating Officer shall prescribe the rates of pay applicable to the members of the staff appointed under paragraph (1), except that—

(A) a staff member who is a member of the Armed Forces on active duty or who is a full-time officer or employee of the United States may not receive additional pay by reason of service on the administrative staff; and

(B) the limitations in section 5373 of title 5, relating to pay set by administrative action, shall apply to the rates of pay prescribed under this paragraph.

**(f) Acceptance of gifts**

(1) The Chief Operating Officer may accept gifts of money, property, and facilities on behalf of the Retirement Home.

(2) Monies received as gifts, or realized from the disposition of property and facilities received as gifts, shall be deposited in the Armed Forces Retirement Home Trust Fund.

(Pub. L. 101-510, div. A, title XV, § 1515, Nov. 5, 1990, 104 Stat. 1726; Pub. L. 102-190, div. A, title X, § 1062(a)(4), Dec. 5, 1991, 105 Stat. 1475; Pub. L. 103-160, div. A, title III, § 366(b), Nov. 30, 1993, 107 Stat. 1630; Pub. L. 104-201, div. A, title X, § 1051(a), (b)(1), Sept. 23, 1996, 110 Stat. 2648; Pub. L. 107-107, div. A, title XIV, § 1404(a), Dec. 28, 2001, 115 Stat. 1259.)

**AMENDMENTS**

2001—Pub. L. 107-107 amended section catchline and text generally, substituting provisions relating to the Chief Operating Officer of the Retirement Home for provisions relating to the composition and operation of Retirement Home Board.

1996—Subsec. (e)(3). Pub. L. 104-201, § 1051(a), added par. (3).

Subsec. (f). Pub. L. 104-201, § 1051(b)(1), amended heading and text of subsec. (f) generally. Prior to amendment, text read as follows: "Not later than the effec-

tive date specified in section 1541(a), members of the Retirement Home Board and the members of each Local Board shall be first appointed to staggered terms."

1993—Subsec. (d)(1). Pub. L. 103-160 amended par. (1) generally. Prior to amendment, par. (1) read as follows: "The Secretary of Defense shall select one of the members of the Retirement Home Board to serve as chairman. The term of office of the chairman of the Retirement Home Board shall be five years."

1991—Subsecs. (a), (c). Pub. L. 102-190, § 1062(a)(4)(A), substituted "Local Boards" for "local boards".

Subsec. (d)(2). Pub. L. 102-190, § 1062(a)(4)(B), substituted "that Board" for "that board".

**EFFECTIVE DATE**

Section effective one year after Nov. 5, 1990, except that provisions of this section relating to appointment and designation of members of Retirement Home Board and Local Boards effective Oct. 1, 1991, see section 1541(a), (c) of Pub. L. 101-510, formerly set out as a note under section 401 of this title.

**SAVINGS PROVISION**

Section 1051(b)(2) of Pub. L. 104-201 provided that: "The amendment made by this subsection [amending this section] shall not affect the staggered terms of members of the Armed Forces Retirement Home Board or a Local Board of the Retirement Home under section 1515(f) of such Act [subsec. (f) of this section], as such section is in effect before the date of the enactment of this Act [Sept. 23, 1996]."

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in section 411 of this title.

**§ 416. Local Boards of Trustees**

**(a) Establishment**

Each facility of the Retirement Home shall have a Local Board of Trustees.

**(b) Duties**

The Local Board for a facility shall serve in an advisory capacity to the Director of the facility and to the Chief Operating Officer.

**(c) Composition**

(1) The Local Board for a facility shall consist of at least 11 members who (except as otherwise specifically provided) shall be appointed by the Secretary of Defense in consultation with each of the Secretaries of the military departments concerned. At least one member of the Local Board shall have a perspective that is oriented toward the Retirement Home overall. The Local Board for a facility shall consist of the following members:

(A) One member who is a civilian expert in nursing home or retirement home administration and financing from the geographical area of the facility.

(B) One member who is a civilian expert in gerontology from the geographical area of the facility.

(C) One member who is a service expert in financial management.

(D) One representative of the Department of Veterans Affairs regional office nearest in proximity to the facility, who shall be designated by the Secretary of Veterans Affairs.

(E) One representative of the resident advisory committee or council of the facility.

(F) One enlisted representative of the Services' Retiree Advisory Council.

(G) The senior noncommissioned officer of one of the Armed Forces.

(H) One senior representative of the military hospital nearest in proximity to the facility.

(I) One senior judge advocate from one of the Armed Forces.

(J) The Director of the facility, who shall be a nonvoting member.

(K) One senior representative of one of the chief personnel officers of the Armed Forces.

(L) Other members designated by the Secretary of Defense (if the Local Board is to have more than 11 members).

(2) The Secretary of Defense shall designate one member of a Local Board to serve as the chairman of the Local Board at the pleasure of the Secretary of Defense.

**(d) Terms**

(1) Except as provided in subsections (e), (f), and (g) of this section, the term of office of a member of a Local Board shall be five years.

(2) Unless earlier terminated by the Secretary of Defense, a person may continue to serve as a member of the Local Board after the expiration of the member's term until a successor is appointed or designated, as the case may be.

**(e) Early expiration of term**

A member of a Local Board who is a member of the Armed Forces or an employee of the United States serves as a member of the Local Board only for as long as the member is assigned to or serving in a position for which the duties include the duty to serve as a member of the Local Board.

**(f) Vacancies**

(1) A vacancy in the membership of a Local Board shall be filled in the manner in which the original appointment or designation was made, as the case may be.

(2) A member appointed or designated to fill a vacancy occurring before the end of the term of the predecessor of the member shall be appointed or designated, as the case may be, for the remainder of the term for which the predecessor was appointed.

(3) A vacancy in a Local Board shall not affect its authority to perform its duties.

**(g) Early termination**

The Secretary of Defense may terminate the appointment of a member of a Local Board before the expiration of the member's term for any reason that the Secretary determines appropriate.

**(h) Compensation**

(1) Except as provided in paragraph (2), a member of a Local Board shall—

(A) be provided a stipend consistent with the daily government consultant fee for each day on which the member is engaged in the performance of services for the Local Board; and

(B) while away from home or regular place of business in the performance of services for the Local Board, be allowed travel expenses (including per diem in lieu of subsistence) in the same manner as a person employed intermittently in Government under sections 5701 through 5707 of title 5.

(2) A member of a Local Board who is a member of the Armed Forces on active duty or a full-time officer or employee of the United States shall receive no additional pay by reason of serving as a member of a Local Board.

(Pub. L. 101-510, div. A, title XV, §1516, Nov. 5, 1990, 104 Stat. 1728; Pub. L. 107-107, div. A, title XIV, §1406, Dec. 28, 2001, 115 Stat. 1262.)

AMENDMENTS

2001—Pub. L. 107-107 amended section catchline and text generally, substituting provisions relating to Local Boards of Trustees for provisions relating to the duties of the Retirement Home Board.

EFFECTIVE DATE

Section effective one year after Nov. 5, 1990, see section 1541(a) of Pub. L. 101-510, formerly set out as a note under section 401 of this title.

MODERNIZATION OF FACILITIES AT UNITED STATES SOLDIERS' AND AIRMEN'S HOME

Pub. L. 103-337, div. A, title III, §371(c), Oct. 5, 1994, 108 Stat. 2735, directed the Chairman of the Armed Forces Retirement Home Board to carry out a study to identify and evaluate alternatives for modernization of the facilities at the United States Soldiers' and Airmen's Home, and to submit an interim report, not later than Apr. 1, 1995, and a final report, not later than Dec. 31, 1995, on the results of the study to the Committees on Armed Services of the Senate and House of Representatives.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 401 of this title.

**§417. Directors, deputy directors, associate directors, and staff of facilities**

**(a) Appointment**

The Secretary of Defense shall appoint a Director, a Deputy Director, and an Associate Director for each facility of the Retirement Home.

**(b) Director**

The Director of a facility shall—

(1) be a civilian with experience as a continuing care retirement community professional or a member of the Armed Forces serving on active duty in a grade below brigadier general or, in the case of the Navy, rear admiral (lower half);

(2) have appropriate leadership and management skills; and

(3) be required to pursue a course of study to receive certification as a retirement facilities director by an appropriate civilian certifying organization, if the Director is not so certified at the time of appointment.

**(c) Duties of Director**

(1) The Director of a facility shall be responsible for the day-to-day operation of the facility, including the acceptance of applicants to be residents of that facility.

(2) The Director of a facility shall keep accurate and complete records of the facility.

**(d) Deputy Director**

(1) The Deputy Director of a facility shall—

(A) be a civilian with experience as a continuing care retirement community professional or a member of the Armed Forces serving on active duty in a grade below colonel or, in the case of the Navy, captain; and

(B) have appropriate leadership and management skills.

(2) The Deputy Director of a facility shall serve at the pleasure of the Secretary of Defense.

**(e) Duties of Deputy Director**

The Deputy Director of a facility shall, under the authority, direction, and control of the Director of the facility, perform such duties as the Director may assign.

**(f) Associate Director**

(1) The Associate Director of a facility shall—

(A) be a member of the Armed Forces serving on active duty in the grade of Sergeant Major, Master Chief Petty Officer, or Chief Master Sergeant or a member or former member retired in that grade; and

(B) have appropriate leadership and management skills.

(2) The Associate Director of a facility shall serve at the pleasure of the Secretary of Defense.

**(g) Duties of Associate Director**

The Associate Director of a facility shall, under the authority, direction, and control of the Director and Deputy Director of the facility, serve as ombudsman for the residents and perform such other duties as the Director may assign.

**(h) Staff**

(1) The Director of a facility may, subject to the approval of the Chief Operating Officer, appoint and prescribe the pay of such principal staff as the Director considers appropriate to assist the Director in operating the facility.

(2) The principal staff of a facility shall include persons with experience and expertise in the operation and management of retirement homes and in the provision of long-term medical care for older persons.

**(i) Annual evaluation of directors**

(1) The Chief Operating Officer shall evaluate the performance of each of the Directors of the facilities of the Retirement Home each year.

(2) The Chief Operating Officer shall submit to the Secretary of Defense any recommendations regarding a Director that the Chief Operating Officer determines appropriate taking into consideration the annual evaluation.

(Pub. L. 101-510, div. A, title XV, §1517, Nov. 5, 1990, 104 Stat. 1729; Pub. L. 102-190, div. A, title X, §1062(a)(5), Dec. 5, 1991, 105 Stat. 1475; Pub. L. 104-201, div. A, title X, §1051(c), Sept. 23, 1996, 110 Stat. 2649; Pub. L. 105-261, div. A, title X, §1041(a)-(c), Oct. 17, 1998, 112 Stat. 2124; Pub. L. 107-107, div. A, title XIV, §1407, Dec. 28, 2001, 115 Stat. 1264.)

**AMENDMENTS**

2001—Pub. L. 107-107 amended section catchline and text generally, substituting provisions relating to directors, deputy directors, associate directors, and staff of facilities for provisions relating to directors and staff.

1998—Subsec. (a)(2). Pub. L. 105-261, §1041(a)(1)(A), substituted “The Director of the United States Soldiers’ and Airmen’s Home” for “Each Director” in introductory provisions.

Subsec. (a)(2)(B). Pub. L. 105-261, §1041(a)(1)(B), added subpar. (B) and struck out former subpar. (B) which read as follows: “have appropriate leadership and management skills, an appreciation and understanding of the culture and norms associated with military service, and a significant military background.”

Subsec. (a)(3) to (5). Pub. L. 105-261, §1041(a)(2), (3), added pars. (3) and (4) and redesignated former par. (3) as (5).

Subsec. (c). Pub. L. 105-261, §1041(b), substituted “Terms of Directors” for “Term of Director” in heading, designated existing provisions as par. (1), substituted “The term of office of the Director of the United States Soldiers’ and Airmen’s Home shall be five years. The Director” for “The term of office of a Director shall be five years. A Director”, and added par. (2).

Subsec. (g). Pub. L. 105-261, §1041(c), added subsec. (g). 1996—Subsec. (f). Pub. L. 104-201 added subsec. (f) and struck out heading and text of former subsec. (f). Text read as follows:

“(1) Until the date on which the Secretary of Defense first appoints the Director for the establishment of the Retirement Home known as the Naval Home, the Governor of the Naval Home shall operate that facility consistent with this chapter and other laws applicable to the Retirement Home.

“(2) Until the date on which the Secretary of Defense first appoints the Director for the facility of the Retirement Home known as the United States Soldiers’ and Airmen’s Home, the Governor of the United States Soldiers’ and Airmen’s Home shall operate that establishment consistent with this chapter and other laws applicable to the Retirement Home.”

1991—Subsec. (f). Pub. L. 102-190 made technical amendment to references to this chapter to correct reference to corresponding provision of original act.

**EFFECTIVE DATE OF 1998 AMENDMENT**

Pub. L. 105-261, div. A, title X, §1041(d), Oct. 17, 1998, 112 Stat. 2124, provided that: “The amendments made by this section [amending this section] shall take effect on October 1, 1998.”

**EFFECTIVE DATE**

Section effective one year after Nov. 5, 1990, see section 1541(a) of Pub. L. 101-510, formerly set out as a note under section 401 of this title.

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 432, 433 of this title.

**§ 418. Inspection of Retirement Home**

**(a) Triennial inspection**

Every three years the Inspector General of a military department shall inspect the Retirement Home, including the records of the Retirement Home.

**(b) Alternating duty among Inspectors General**

The duty to inspect the Retirement Home shall alternate among the Inspector General of the Army, the Naval Inspector General, and the Inspector General of the Air Force on such schedule as the Secretary of Defense shall direct.

**(c) Reports**

Not later than 45 days after completing an inspection under subsection (a) of this section, the Inspector General carrying out the inspection shall submit to the Chief Operating Officer, the Secretary of Defense, and Congress a report describing the results of the inspection and containing such recommendations as the Inspector General considers appropriate.

(Pub. L. 101-510, div. A, title XV, §1518, Nov. 5, 1990, 104 Stat. 1730; Pub. L. 105-261, div. A, title X, §1042(a), Oct. 17, 1998, 112 Stat. 2125; Pub. L. 107-107, div. A, title XIV, §1404(b)(1)(C), Dec. 28, 2001, 115 Stat. 1260.)

#### AMENDMENTS

2001—Subsec. (c). Pub. L. 107-107 substituted “Chief Operating Officer” for “Retirement Home Board”.

1998—Pub. L. 105-261 amended section catchline and text generally. Prior to amendment, text read as follows: “The Inspector General of the Department of Defense shall—

“(1) conduct, not later than three years after the effective date specified in section 1541(a) (and at six-year intervals thereafter), an inspection of the Retirement Home and the records of the Retirement Home;

“(2) cause the Inspector Generals of the military departments to conduct an inspection of the Retirement Home and its records at six-year intervals alternating with the inspections by the Inspector General of the Department of Defense so that each home is inspected every three years; and

“(3) submit to the Retirement Home Board, the Secretary of Defense, and Congress a report describing the results of the inspection and containing such recommendations as the Inspector General considers appropriate.”

#### EFFECTIVE DATE

Section effective one year after Nov. 5, 1990, see section 1541(a) of Pub. L. 101-510, formerly set out as a note under section 401 of this title.

#### FIRST INSPECTION

Pub. L. 105-261, div. A, title X, §1042(b), Oct. 17, 1998, 112 Stat. 2125, provided that: “The first inspection under section 1518 of the Armed Forces Retirement Home Act of 1991 [24 U.S.C. 418], as amended by subsection (a), shall be carried out during fiscal year 1999.”

### § 419. Armed Forces Retirement Home Trust Fund

#### (a) Establishment

There is hereby established in the Treasury of the United States a trust fund to be known as the Armed Forces Retirement Home Trust Fund. The Fund shall consist of the following:

(1) Such amounts as may be transferred to the Fund.

(2) Moneys deposited in the Fund by the Retirement Home Board realized from gifts or from the disposition of property and facilities.

(3) Amounts deposited in the Fund as monthly fees paid by residents of the Retirement Home under section 414 of this title.

(4) Amounts of fines and forfeitures deposited in the Fund under section 2772 of title 10.

(5) Amounts deposited in the Fund as deductions from the pay of enlisted members, warrant officers, and limited duty officers under section 1007(i) of title 37.

(6) Interest from investments made under subsection (c) of this section.

#### (b) Availability and use of Fund

Amounts in the Fund shall be available solely for the operation of the Retirement Home.

#### (c) Investments

The Secretary of the Treasury may invest in obligations issued or guaranteed by the United States any monies in the Fund that the Chief

Operating Officer determines are not currently needed to pay for the operation of the Retirement Home.

(Pub. L. 101-510, div. A, title XV, §1519, Nov. 5, 1990, 104 Stat. 1730; Pub. L. 107-107, div. A, title XIV, §§1404(b)(2), 1410(a)(2), (b)(2), Dec. 28, 2001, 115 Stat. 1260, 1266.)

#### AMENDMENTS

2001—Pub. L. 107-107, §1410(a)(2), inserted “Armed Forces” before “Retirement Home Trust Fund” in section catchline.

Subsec. (c). Pub. L. 107-107, §1404(b)(2), substituted “Chief Operating Officer” for “Director”.

Subsec. (d). Pub. L. 107-107, §1410(b)(2), struck out heading and text of subsec. (d). Text read as follows:

“(1) During the period beginning on November 5, 1990, and ending on September 30, 1994, the Fund shall contain a separate account for each establishment of the Retirement Home. During that period, contributions shall be collected under subsection (a) of this section for the account of the Naval Home for the purpose of achieving a trust fund five times the estimated annual operating budget of the Naval Home.

“(2) Beginning on November 5, 1990, funds required for the operation of the United States Soldiers’ and Airmen’s Home shall be drawn from the appropriate account. Beginning on October 1, 1991, funds required for the operation of the Naval Home shall be drawn from the account of the Naval Home.

“(3) During the period beginning on November 5, 1990, and ending on September 30, 1994—

“(A) amounts collected as monthly fees paid by residents of the Naval Home and amounts referred to in subsections (a)(4) and (a)(5) of this section derived from enlisted members, warrant officers, and limited duty officers of the Navy, Marine Corps, and Coast Guard shall be credited to the account relating to that establishment; and

“(B) amounts collected as monthly fees paid by residents of the United States Soldiers’ and Airmen’s Home and amounts referred to in subsections (a)(4) and (a)(5) of this section derived from members and warrant officers of the Army and Air Force shall be credited to the account relating to that establishment.”

#### EFFECTIVE DATE

Section effective Nov. 5, 1990, see section 1541(b) of Pub. L. 101-510, formerly set out as a note under section 401 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 401 of this title.

### § 420. Disposition of effects of deceased persons; unclaimed property

#### (a) Disposition of effects of deceased persons

The Director of a facility of the Retirement Home shall safeguard and dispose of the estate and personal effects of deceased residents, including effects delivered to such facility under sections 4712(f) and 9712(f) of title 10, and shall ensure the following:

(1) A will or other instrument of a testamentary nature involving property rights executed by a resident shall be promptly delivered, upon the death of the resident, to the proper court of record.

(2) If a resident dies intestate and the heirs or legal representative of the deceased cannot be immediately ascertained, the Director shall retain all property left by the decedent for a three-year period beginning on the date of the

death. If entitlement to such property is established to the satisfaction of the Director at any time during the three-year period, the Director shall distribute the decedent's property, in equal pro-rata shares when multiple beneficiaries have been identified, to the highest following categories of identified survivors (listed in the order of precedence indicated):

- (A) The surviving spouse or legal representative.
- (B) The children of the deceased.
- (C) The parents of the deceased.
- (D) The siblings of the deceased.
- (E) The next-of-kin of the deceased.

**(b) Sale of effects**

(1)(A) If the disposition of the estate of a resident of the Retirement Home cannot be accomplished under subsection (a)(2) of this section or if a resident dies testate and the nominated fiduciary, legatees, or heirs of the resident cannot be immediately ascertained, the entirety of the deceased resident's domiciliary estate and the entirety of any ancillary estate that is unclaimed at the end of the three-year period beginning on the date of the death of the resident shall escheat to the Retirement Home.

(B) Upon the sale of any such unclaimed estate property, the proceeds of the sale shall be deposited in the Armed Forces Retirement Home Trust Fund.

(C) If a personal representative or other fiduciary is appointed to administer a deceased resident's estate and the administration is completed before the end of such three-year period, the balance of the entire net proceeds of the estate, less expenses, shall be deposited directly in the Retirement Home Trust Fund.<sup>1</sup> The heirs or legatees of the deceased resident may file a claim made with the Secretary of Defense to reclaim such proceeds. A determination of the claim by the Secretary shall be subject to judicial review exclusively by the United States Court of Federal Claims.

(2)(A) The Director of a facility of the Retirement Home may designate an attorney who is a full-time officer or employee of the United States or a member of the Armed Forces on active duty to serve as attorney or agent for the facility in any probate proceeding in which the Retirement Home may have a legal interest as nominated fiduciary, testamentary legatee, escheat legatee, or in any other capacity.

(B) An attorney designated under this paragraph may, in the domiciliary jurisdiction of the deceased resident and in any ancillary jurisdiction, petition for appointment as fiduciary. The attorney shall have priority over any petitioners (other than the deceased resident's nominated fiduciary, named legatees, or heirs) to serve as fiduciary. In a probate proceeding in which the heirs of an intestate deceased resident cannot be located and in a probate proceeding in which the nominated fiduciary, legatees, or heirs of a testate deceased resident cannot be located, the attorney shall be appointed as the fiduciary of the deceased resident's estate.

(3) The designation of an employee or representative of a facility of the Retirement Home

as personal representative of the estate of a resident of the Retirement Home or as a legatee under the will or codicil of the resident shall not disqualify an employee or staff member of that facility from serving as a competent witness to a will or codicil of the resident.

(4) After the end of the three-year period beginning on the date of the death of a resident of a facility, the Director of the facility shall dispose of all property of the deceased resident that is not otherwise disposed of under this subsection, including personal effects such as decorations, medals, and citations to which a right has not been established under subsection (a) of this section. Disposal may be made within the discretion of the Director by—

- (A) retaining such property or effects for the facility;
- (B) offering such items to the Secretary of Veterans Affairs, a State, another military home, a museum, or any other institution having an interest in such items; or
- (C) destroying any items determined by the Director to be valueless.

**(c) Transfer of proceeds to Fund**

The net proceeds received by the Directors from the sale of effects under subsection (b) of this section shall be deposited in the Fund.

**(d) Subsequent claim**

(1) A claim for the net proceeds of the sale under subsection (b) of this section of the effects of a deceased may be filed with the Secretary of Defense at any time within six years after the death of the deceased, for action under section 2771 of title 10.

(2) A claim referred to in paragraph (1) may not be considered by a court or the Secretary unless the claim is filed within the time period prescribed in such paragraph.

(3) A claim allowed by the Secretary under paragraph (1) shall be certified to the Secretary of the Treasury for payment from the Fund in the amount found due, including any interest relating to the amount. No claim may be allowed or paid in excess of the net proceeds of the estate deposited in the Fund under subsection (c) of this section plus interest.

**(e) Unclaimed property**

In the case of property delivered to the Retirement Home under section 2575 of title 10, the Director of the facility shall deliver the property to the owner, the heirs or next of kin of the owner, or the legal representative of the owner, if a right to the property is established to the satisfaction of the Director of the facility within two years after the delivery.

(Pub. L. 101-510, div. A, title XV, §1520, Nov. 5, 1990, 104 Stat. 1731; Pub. L. 103-160, div. A, title III, §366(d), (e), Nov. 30, 1993, 107 Stat. 1631; Pub. L. 104-316, title II, §202(j), Oct. 19, 1996, 110 Stat. 3843; Pub. L. 107-107, div. A, title XIV, §§1408, 1410(a)(3), Dec. 28, 2001, 115 Stat. 1265, 1266; Pub. L. 107-314, div. A, title X, §1062(f)(3), Dec. 2, 2002, 116 Stat. 2651.)

AMENDMENTS

2002—Subsec. (e). Pub. L. 107-314 made technical correction to directory language of Pub. L. 107-107, §1410(a)(3)(C). See 2001 Amendment note below.

<sup>1</sup> So in original. Probably should be "Armed Forces Retirement Home Trust Fund".

2001—Subsec. (a). Pub. L. 107-107, § 1410(a)(3)(A), substituted “a facility” for “each facility that is maintained as a separate establishment” in introductory provisions.

Subsec. (b)(1)(B). Pub. L. 107-107, § 1408(b), inserted “Armed Forces” before “Retirement Home Trust Fund”.

Subsec. (b)(2)(A). Pub. L. 107-107, §§ 1408(a), 1410(a)(3)(B), struck out “maintained as a separate establishment” before “of the Retirement Home” and inserted “who is a full-time officer or employee of the United States or a member of the Armed Forces on active duty” after “may designate an attorney”.

Subsec. (e). Pub. L. 107-107, § 1410(a)(3)(C), as amended by Pub. L. 107-314, substituted “Director of the facility” for “Directors” in two places.

1996—Subsec. (b)(1)(C). Pub. L. 104-316, § 202(j)(1), substituted “Secretary of Defense” for “Comptroller General of the United States” and “Secretary” for “Comptroller General”.

Subsec. (d). Pub. L. 104-316, § 202(j)(2), substituted “Secretary of Defense” for “Comptroller General of the United States” in par. (1), “Secretary” for “Comptroller General” in par. (2), and “allowed by the Secretary” for “allowed by the Comptroller General” in par. (3).

1993—Subsec. (a). Pub. L. 103-160, § 366(d), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: “The Directors of the establishments of the Retirement Home shall safeguard and dispose of the effects of a deceased person delivered to the Retirement Home under section 4712(f) or 9712(f) of title 10 and the estate and effects of a deceased resident of the Armed Forces Retirement Home as follows:

“(1) A will or other paper involving property rights shall be promptly delivered to the proper court of record.

“(2) If the heirs or legal representative of the deceased cannot sooner be ascertained, the Directors shall retain the remaining effects until three years after the death of the deceased, and then, if a right to the effects is established to the satisfaction of the Directors, shall deliver the effects to the living person highest on the following list who can be found:

“(A) The surviving spouse or legal representative.

“(B) A child of the deceased.

“(C) A parent of the deceased.

“(D) A brother or sister of the deceased.

“(E) The next-of-kin of the deceased.

“(F) A beneficiary named in the will of the deceased.”

Subsec. (b). Pub. L. 103-160, § 366(e), amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows:

“(1) After three years from the date of death of the deceased, the Directors may sell the effects to which a right has not been established under subsection (a) of this section (except decorations, medals, and citations) by public or private sale, as the Directors consider most advantageous.

“(2) After five years from the date of death of the deceased, the Directors shall dispose of effects that were not sold under paragraph (1) (including decorations, medals, and citations) and to which a right has not been established under subsection (a) of this section. The sale shall be made in the manner that the Directors consider most appropriate in the public interest. Disposal may include—

“(A) retaining the effects for the use of the Retirement Home;

“(B) delivering the effects to the Secretary of Veterans Affairs, to a State or other military home, to a museum, or to any other appropriate institution; or

“(C) destroying the effects if the Retirement Home Board determines that they are valueless.”

#### EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-314, div. A, title X, § 1062(f), Dec. 2, 2002, 116 Stat. 2651, provided that the amendment made by section 1062(f)(3) is effective as of Dec. 28, 2001, and as if included in Pub. L. 107-107 as enacted.

#### EFFECTIVE DATE

Section applicable to estate of each resident of Armed Forces Retirement Home, including United States Soldiers' and Airmen's Home and Naval Home, who dies after Nov. 29, 1989, see section 1541(d) of Pub. L. 101-510, formerly set out as a note under section 401 of this title.

### § 421. Payment of residents for services

#### (a) Authority

The Chief Operating Officer is authorized to accept for the Armed Forces Retirement Home the part-time or intermittent services of a resident of the Retirement Home, to pay the resident for such services, and to fix the rate of such pay.

#### (b) Employment status

A resident receiving pay for services authorized under subsection (a) of this section shall not, by reason of performing such services and receiving pay for such services, be considered as—

(1) receiving the pay of a position or being employed in a position for the purposes of section 5532<sup>1</sup> of title 5; or

(2) being an employee of the United States for any purpose other than—

(A) subchapter I of chapter 81 of title 5 (relating to compensation for work-related injuries); and

(B) chapter 171 of title 28 (relating to claims for damages or loss).

#### (c) “Position” defined

In subsection (b)(1) of this section, the term “position” has the meaning given that term in section 5531 of title 5.

(Pub. L. 101-510, div. A, title XV, § 1521, as added Pub. L. 102-484, div. A, title III, § 385(a), Oct. 23, 1992, 106 Stat. 2394; amended Pub. L. 104-201, div. A, title X, § 1052(b), Sept. 23, 1996, 110 Stat. 2650; Pub. L. 107-107, div. A, title XIV, § 1404(b)(3), Dec. 28, 2001, 115 Stat. 1260.)

#### REFERENCES IN TEXT

Section 5532 of title 5, referred to in subsec. (b)(1), was repealed by Pub. L. 106-65, div. A, title VI, § 651(a)(1), Oct. 5, 1999, 113 Stat. 664.

#### AMENDMENTS

2001—Subsec. (a). Pub. L. 107-107 substituted “Chief Operating Officer” for “Chairman of the Armed Forces Retirement Board”.

1996—Subsec. (b)(2). Pub. L. 104-201 amended par. (2) generally. Prior to amendment, par. (2) read as follows: “being an employee of the United States for any other purpose.”

#### FORGIVENESS OF INDEBTEDNESS

Section 385(b) of Pub. L. 102-484 provided that: “The Chairman of the Armed Forces Retirement Board is authorized to cancel the indebtedness of any resident of the Armed Forces Retirement Home for repayment to the United States of amounts paid the resident for services provided to the Retirement Home before the date of the enactment of this Act [Oct. 23, 1992] if the Chairman determines that it would be in the interest of the United States to do so and against equity and good conscience to require the repayment.”

<sup>1</sup> See References in Text note below.

## **§ 422. Authority to accept certain uncompensated services**

### **(a) Authority to accept services**

Subject to subsection (b) of this section and notwithstanding section 1342 of title 31, the Chief Operating Officer or the Director of a facility of the Retirement Home may accept from any person voluntary personal services or gratuitous services.

### **(b) Requirements and limitations**

(1) The Chief Operating Officer or the Director of a facility accepting the services shall notify the person offering the services of the scope of the services accepted.

(2) The Chief Operating Officer or Director shall—

(A) supervise the person providing the services to the same extent as that official would supervise a compensated employee providing similar services; and

(B) ensure that the person is licensed, privileged, has appropriate credentials, or is otherwise qualified under applicable laws or regulations to provide such services.

(3) A person providing services accepted under subsection (a) of this section may not—

(A) serve in a policymaking position of the Retirement Home; or

(B) be compensated for the services by the Retirement Home.

### **(c) Authority to recruit and train persons providing services**

The Chief Operating Officer or the Director of a facility of the Retirement Home may recruit and train persons to provide services authorized to be accepted under subsection (a) of this section.

### **(d) Status of persons providing services**

(1) Subject to paragraph (3), while providing services accepted under subsection (a) of this section or receiving training under subsection (c) of this section, a person shall be considered to be an employee of the Federal Government only for purposes of the following provisions of law:

(A) Subchapter I of chapter 81 of title 5 (relating to compensation for work-related injuries).

(B) Chapter 171 of title 28 (relating to claims for damages or loss).

(2) A person providing services accepted under subsection (a) of this section shall be considered to be an employee of the Federal Government under paragraph (1) only with respect to services that are within the scope of the services accepted.

(3) For purposes of determining the compensation for work-related injuries payable under chapter 81 of title 5 (pursuant to this subsection) to a person providing services accepted under subsection (a) of this section, the monthly pay of the person for such services shall be deemed to be the amount determined by multiplying—

(A) the average monthly number of hours that the person provided the services, by

(B) the minimum wage determined in accordance with section 206(a)(1) of title 29.

### **(e) Reimbursement of incidental expenses**

The Chief Operating Officer or the Director of a facility accepting services under subsection (a) of this section may provide for reimbursement of a person for incidental expenses incurred by the person in providing the services accepted under subsection (a) of this section. The Chief Operating Officer or Director shall determine which expenses qualify for reimbursement under this subsection.

(Pub. L. 101–510, div. A, title XV, § 1522, as added Pub. L. 104–201, div. A, title X, § 1052(a), Sept. 23, 1996, 110 Stat. 2649; amended Pub. L. 107–107, div. A, title XIV, § 1404(b)(4), Dec. 28, 2001, 115 Stat. 1260.)

#### **AMENDMENTS**

2001—Subsec. (a). Pub. L. 107–107, § 1404(b)(4)(A), substituted “Chief Operating Officer or the Director of a facility” for “Chairman of the Retirement Home Board or the Director of each establishment” and struck out “unless the acceptance of the voluntary services is disapproved by the Retirement Home Board” before period at end.

Subsec. (b)(1). Pub. L. 107–107, § 1404(b)(4)(B), substituted “Chief Operating Officer or the Director of a facility” for “Chairman of the Retirement Home Board or the Director of the establishment” and inserted “offering the services” after “notify the person”.

Subsec. (b)(2). Pub. L. 107–107, § 1404(b)(4)(C), substituted “Chief Operating Officer” for “Chairman” in introductory provisions.

Subsec. (c). Pub. L. 107–107, § 1404(b)(4)(D), substituted “Chief Operating Officer or the Director of a facility” for “Chairman of the Retirement Home Board or the Director of an establishment”.

Subsec. (e). Pub. L. 107–107, § 1404(b)(4)(E), substituted “Chief Operating Officer or the Director of a facility” for “Chairman of the Retirement Board or the Director of the establishment” and “Chief Operating Officer or Director” for “Chairman or Director”.

## **§ 423. Preservation of historic buildings and grounds at the Armed Forces Retirement Home—Washington**

### **(a) Historic nature of facility**

Congress finds the following:

(1) Four buildings located on six acres of the establishment of the Retirement Home known as the Armed Forces Retirement Home—Washington are included on the National Register of Historic Places maintained by the Secretary of the Interior.

(2) Amounts in the Armed Forces Retirement Home Trust Fund, which consists primarily of deductions from the pay of members of the Armed Forces, are insufficient to both maintain and operate the Retirement Home for the benefit of the residents of the Retirement Home and adequately maintain, repair, and preserve these historic buildings and grounds.

(3) Other sources of funding are available to contribute to the maintenance, repair, and preservation of these historic buildings and grounds.

### **(b) Authority to accept assistance**

The Chief Operating Officer and the Director of the Armed Forces Retirement Home—Washington may apply for and accept a direct grant from the Secretary of the Interior under section 470a(e)(3) of title 16 for the purpose of maintain-

ing, repairing, and preserving the historic buildings and grounds of the Armed Forces Retirement Home—Washington included on the National Register of Historic Places.

**(c) Requirements and limitations**

Amounts received as a grant under subsection (b) of this section shall be deposited in the Fund, but shall be kept separate from other amounts in the Fund. The amounts received may only be used for the purpose specified in subsection (b) of this section.

(Pub. L. 101-510, div. A, title XV, §1523, as added Pub. L. 106-65, div. A, title III, §383, Oct. 5, 1999, 113 Stat. 583; amended Pub. L. 107-107, div. A, title XIV, §§1404(b)(5), 1410(a)(4), Dec. 28, 2001, 115 Stat. 1261, 1266.)

AMENDMENTS

2001—Pub. L. 107-107, §1410(a)(4)(B), amended section catchline generally, substituting “the Armed Forces Retirement Home—Washington” for “United States Soldiers’ and Airmen’s Home”.

Subsec. (a)(1). Pub. L. 107-107, §1410(a)(4)(A), substituted “Armed Forces Retirement Home—Washington” for “United States Soldiers’ and Airmen’s Home”.

Subsec. (b). Pub. L. 107-107, §§1404(b)(5), 1410(a)(4)(A), substituted “Chief Operating Officer” for “Chairman of the Retirement Home Board” and substituted “Armed Forces Retirement Home—Washington” for “United States Soldiers’ and Airmen’s Home” in two places.

**§ 424. Repealed. Pub. L. 107-107, div. A, title XIV, § 1410(a)(5), Dec. 28, 2001, 115 Stat. 1266**

Section, Pub. L. 101-510, div. A, title XV, §1524, as added Pub. L. 106-398, §1 [[div. A], title IX, §915], Oct. 30, 2000, 114 Stat. 1654, 1654A-231, related to conditional supervisory control of Retirement Home Board by Secretary of Defense.

SUBCHAPTER II—TRANSITIONAL PROVISIONS

**§ 431. Temporary continuation of Armed Forces Retirement Home Board**

Until the Secretary of Defense appoints the first Chief Operating Officer after December 28, 2001, the Armed Forces Retirement Home Board, as constituted on the day before December 28, 2001, shall continue to serve and shall perform the duties of the Chief Operating Officer.

(Pub. L. 101-510, div. A, title XV, §1531, as added Pub. L. 107-107, div. A, title XIV, §1409, Dec. 28, 2001, 115 Stat. 1265.)

PRIOR PROVISIONS

A prior section 431, Pub. L. 101-510, div. A, title XV, §1531, Nov. 5, 1990, 104 Stat. 1732, related to transfer of trust funds relating to Naval Home and Soldiers’ and Airmen’s Home, prior to repeal by Pub. L. 107-107, div. A, title XIV, §1409, Dec. 28, 2001, 115 Stat. 1265.

**§ 432. Directors of facilities**

**(a) Active duty officers**

During the three-year period beginning on December 28, 2001, the Directors and Deputy Direc-

tors of the facilities shall be members of the Armed Forces serving on active duty, notwithstanding the authority in subsections (b) and (d) of section 417 of this title for the Directors and Deputy Directors to be civilians.

**(b) Temporary continuation of Director of the Armed Forces Retirement Home—Washington**

The person serving as the Director of the Armed Forces Retirement Home—Washington on the day before December 28, 2001, may continue to serve as the Director of that facility until April 2, 2002.

(Pub. L. 101-510, div. A, title XV, §1532, as added Pub. L. 107-107, div. A, title XIV, §1409, Dec. 28, 2001, 115 Stat. 1265.)

PRIOR PROVISIONS

A prior section 1532 of Pub. L. 101-510, div. A, title XV, Nov. 5, 1990, 104 Stat. 1732, repealed sections 21a to 25, 41 to 43, 44b, 45 to 46b, 48 to 50, 54, and 59 of this title, prior to repeal by Pub. L. 107-107, div. A, title XIV, §1409, Dec. 28, 2001, 115 Stat. 1265.

**§ 433. Temporary continuation of incumbent deputy directors**

A person serving as the Deputy Director of a facility of the Retirement Home on the day before December 28, 2001, may continue to serve, at the pleasure of the Secretary of Defense, as the Deputy Director until the date on which a Deputy Director is appointed for that facility under section 417 of this title, except that the service in that position may not continue under this section after December 31, 2004.

(Pub. L. 101-510, div. A, title XV, §1533, as added Pub. L. 107-107, div. A, title XIV, §1409, Dec. 28, 2001, 115 Stat. 1265.)

PRIOR PROVISIONS

A prior section 1533 of Pub. L. 101-510, div. A, title XV, Nov. 5, 1990, 104 Stat. 1733, amended section 6a of this title, sections 1089, 2575, 2772, 4624, 4712, 9624, and 9712 of Title 10, Armed Forces, section 1321 of Title 31, Money and Finance, section 1007 of Title 37, Pay and Allowances of the Uniformed Services, and section 906 of Title 44, Public Printing and Documents, repealed sections 4713 and 9713 of Title 10, and enacted provisions set out as a note under section 2772 of Title 10, prior to repeal by Pub. L. 107-107, div. A, title XIV, §1409, Dec. 28, 2001, 115 Stat. 1265.

SUBCHAPTER III—AUTHORIZATION OF APPROPRIATIONS

**§ 441. Repealed. Pub. L. 107-107, div. A, title XIV, § 1410(b)(3), Dec. 28, 2001, 115 Stat. 1266**

Section, Pub. L. 101-510, div. A, title XV, §1542, Nov. 5, 1990, 104 Stat. 1736, related to authorization of appropriations for United States Soldiers’ and Airmen’s Home.